IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CONTEMPT PETITION NO.287 OF 2006.

Yashwant Govind Sakhare & others. ... Petitioners.
Versus.
Habib J.Balsania, Advocate & others ... Respondents.

Shri M.D.Angal for the Petitioners.

Shri Sanjay Jain with Shri Prashant Kulkarni for the Respondent No.1.

CORAM : ABHAY S.OKA, J.

DATED : 18th April, 2007.

P.C.:

1. Heard the learned Advocate appearing for the Petitioners. The contempt alleged is of the order dated 26th September 2005 by which the learned Judge of the Small Causes Court at Mumbai directed the 1st Respondent to provide a set of xerox copies of the relevant documents certified by him as true copies to the learned Advocate appearing for the Petitioner in the said suit. The 1st Respondent, who is a practising Advocate was representing the original Plaintiff in the said suit.

2. Now it is brought to my notice that a compliance has been made with the said order by the 1st Respondent on 13th September 2006. In the affidavit filed by the 1st Respondent he has set out the reasons for not complying with the order earlier. He has tendered an unconditional apology to this Court.

3. Considering the nature of the order of which breach was allegedly committed and what is stated in the reply filed by the 1st Respondent, I find that there is no deliberate or wilful disobedience of the order on the part of the 1st Respondent. No case is made out for taking any further action against the 1st Respondent. The learned Counsel for the Petitioner prays that the 1st Respondent be directed to pay costs. Since I have found that no case is made out for taking action under the Contempt of Court Act, 1971, the order of payment of costs cannot be made. Notice issued to the 1st Respondent is discharged. Petition is disposed of.

Judge.